Secdt. II-48—23,702—27-11-25.

Law (General) (1924) Department.

Ordinary SERIES.

G.O. No. 1736

DATED 6. 6. 1924

[Despatch Abstract.]

Magistrate - Bench Courts - South Kanara - Amalgamation and cessation of certain courts - orders passed.

C. W. 29—1,296 24-12-19.

LAW (GENERAL) **DEPARTMENT.**

CURRENT NO. 2923 LAW GENERAL 19

Received SECRETARY TO GOVT. OF MADRAS 21 MAY 1924 LAW DEPARTMENT 19 *Registered* 19

Subject.

Courts - Bench of Honorary Magistrates - South Kanara - abolition - proposals submitted.

21 MAY 1924

ENCLOSURES.
No.
Spare copies

Ref. No. 4028-C-24.

Station Beltangady *Dated the* 13th May 1924.

From (Name) C.A. Souter, Esquire, I.C.S.,

(Designation) District Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) *Department.*

Sir,

I have to bring to the notice of Government some facts connected with the constitution of certain Courts of Benches of Honorary Magistrates in this district and to submit proposals for the abolition of some of these Benches.

2. There are at present in this district according to Annual Statement I part (2) submitted to the High Court last March 8 Courts of Benches of Honorary Magistrates distributed as shown in the margin. Both the Courts at Mangalore and one each at Udipi and Kasaragod exercise I Class powers, while the rest exercise only II Class powers.

Mangalore	2
Udipi	2
Kasaragod	2
Karkal	1
Puttur	1
	8

3. The Bench Courts at Udipi

Lok Upkari
1st + 4. W 20

and Kasaragod were initially created in G.O. No.1384, --- Judicial, dated 29th June 1887 and G.O. No.718, Judicial, dated 17th April 1913, respectively. These Courts could exercise II Class powers under G.O. No.1628, Judicial, -- dated 8th October 1912. Subsequently Government in its Memorandum No.432-B-1, dated 2nd February 1918, called for proposals for the creation of I Class Benches and the rules regarding the qualifications necessary for the Presidents were further relaxed in G.O. No.1793, Judicial, dated 7th August 1918 and G.O. No.330, dated 10th December 1919. Proposals were submitted for the creation of an additional I Class Bench at Udipi and Kasaragod and were sanctioned by Government in G.O. No.516, Law (General), dated 6th June 1921.

4. Thus, since 1921, there have been both at Udipi and Kasaragod two Bench Courts, one exercising I Class and the other II Class powers. The Sub Magistrates who ---- exercise II Class powers preside in both the Courts. The actual constitution of the Benches has been undergoing some change since the creation of the I Class Benches. To -- start with, when the latter Benches were created, 3 persons in both the places were appointed as Special Magistrates and these along with certain selected members of the existing II Class Benches were directed to sit on the I Class Benches. Thus, some of them sat on both the Benches, -- while the others sat on one or the other of the two Benches. Some time later those who were sitting only on the II Class Benches were permitted by the then District Magistrates to sit also on the I Class Benches. The result of this is that at present, in Udipi all the Special Magistrates sit on the I Class Bench. The II Class Bench, as such, has ceased to hold its sittings for some time past. But in Kasaragod both the Benches continue to hold their ------- sittings. All the Magistrates take part in the proceedings

of the I Class Bench. Two of them, however, have not been --- permitted by the President to sit on the II Class Bench, under the misapprehension that they have to be specially authorized - to do so. This is, of course, in error and there is no ------ objection to their sitting on the II Class Bench.

5 It appears to me that the above facts disclose a confusion of ideas regarding the principle underlying the constitution of Bench Courts. Under Sec.15(2) C.P.C. any Special Magistrate - has the powers of a Magistrate of the highest class to which -- any one of the members present belongs. The Stationary Sub-Magistrate who presides has while discharging his functions as President, the powers of a I Class Magistrate subject to certain restrictions. The Bench therefore whenever it holds its ----- sittings and whatever classes of cases it tries, can be ------- considered to be a I Class Bench. The existence of the II Class Bench is, therefore, quite unnecessary. I propose that Government may be pleased to abolish the II Class Benches both at Udipi and Kasaragod. The registers, returns, etc. pertaining to these - Courts will thereby be considerably reduced and simplified. If Government be pleased to accept this proposal, the two Courts - will be omitted from the next Annual I part (2) and the ------- corresponding statements.

6 A similar difficulty is also experienced in respect of the two I Class Bench Courts at Mangalore. Two Courts were created in G.O. No.195, Judicial, dated 28th January 1915, abolishing - the ~~the~~ two existing I and II Class Benches. What the Government actually did was to appoint 15 Special Magistrates of whom two were invested with I Class powers and two with II Class powers. One of each class was to preside while the other was to officiate in his absence. Thus, at one meeting of the Bench if a I Class Magistrate presided, I Class cases were disposed of and at the other when a II Class Magistrate presided, II Class cases were disposed of. Among the instructions issued by the District -- Magistrate then, it was ordered that certain classes of cases, Police and Municipal, should be tried by the II Class Bench, and the rest by the I Class Bench. It was also ordered that two sets

of registers, accounts etc. should be maintained. This led to the Bench being viewed as two separate Courts. Subsequently, in G.O. No.30, Law, dated 6th April 1921, the two -- II Class Magistrates were also invested with I Class powers. However, the difference between the two Courts continued. The practice of one of the Courts trying petty cases only continued until lately when I put a stop to it. The difference between the two Courts has now completely vanished and it is, in my - opinion, not necessary under the existing circumstances to -- insist on the maintenance of two sets of registers, accounts, etc. The Bench of 15 Special Magistrates may be viewed as a single Court, two of the members, for the sake of convenience, presiding by turns. I, therefore, propose that Government may be pleased to abolish one of the I Class Bench Courts at ---- Mangalore. The suggestion is only to set right a technical defect and does not affect the actual constitution of the --- Bench. If the proposal be approved, one of the Courts will be omitted from the Annual I part (2) and the corresponding statements.

Your obedient servant,

For Dt. Magistrate. 19.5

M.S.R./17.5.24.

17-5-24

19.5.24.

Law (Genl) Dept

Subject: Benches of Magistrates. South Kanara 1st and 2nd class

[Go 2923 B] D. M. South Kanara. 4028. C. 24. 13. 5. 24

Udipi and Kasargod: Benches

Please see para 4 of the D. M's letter. It will be seen that since 1921 there have been at both these places two Bench Courts. One exercising first class powers and the other Second class. The D. M says that at Udupi the second class Bench has ceased to hold its sittings for some time past and that at Kasargod both Benches continue to ~~hold their sittings~~. Attention is invited (I) to the wording in Go. Ms 5. 16 dated 6. 6. 21 in which first class Benches are the models mentioned in Go 330 (Jud) dated the 10th Feb '19 were formed at these two places. The wording is "The Governor in Council is pleased to direct without prejudice (U) to the existing Benches

The existing Benches prior to the formation of first class Benches were not therefore affected. They might continue

writ. The Second class Bench at Kalaburgi has already ceased to hold its sittings for some time past: For abolishing these two Second class Benches it would be enough if the D.R is directed that the Second class Benches may cease to hold their sittings.

para 4 of the D.R letter.

Mangalore Bench cases

Please see the Rts bbo No 30 Law(Conf) dt the 6.4.21. From the D.R will be seen that since April '21 the Second class Bench at Mangalore ceased to exist and that there are two Benches of the 1st class Bench at the place. There is no necessity for the maintenance of two sets of registers accounts etc as pointed out by the D.R himself ~~[illegible]~~ It is enough if the D.R orders that only one set of registers and accounts need be maintained ~~[illegible]~~ A draft order is submitted.

✓ page 4 ante

RECEIVED TODAY
5-JUN-1924

31/5/24

V.K 2/6

Draft order

Govt. 11-10 (a)—36,502 - 27-11-23. (E)

	Date	Initials.
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When signed ..		
When despatched ..	6/6	

Law Dept. DEPARTMENT.

Magistrates. Benches Courts - South Kanara

Amalgamation & cessation of certain Courts

Orders passed

READ AGAIN G.O. No. ..... , dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO:—

C. No. 29236 From the D.M. South Kanara, No. 4028/C/24 Ref dated 13/5/24 192 C.

" " ..... " " ..... " ..... " ..... 192 .

" " ..... " " ..... " ..... " ..... 192 .

ORDER.

Mio

No. 1736, dated 6. 6. 1924

The Govt: have no objection to the proposals of the D.M South Kanara in regard to the cessation of the sittings of the second class Benches of Magistrates at Udupi and Kasaragod, and the amalgamation of the two first-class Benches at Mangalore. The maintenance of two sets of registers/account may cease as suggested by the D.M.

Asst. 30/5/24 R 31/5/24 V.T.K. 2/6

H.C. D.M. South Kanara.

30-5-24